Executive Summary
Direct Investigation Report

Education Bureau's Mechanisms for Approving Applications for School Fee Revision by Direct Subsidy Scheme/Private Schools and Collection of Other Charges by Private Schools

Introduction

Every year, quite a number of Direct Subsidy Scheme ("DSS") schools and private schools (including international schools, as used hereinafter) in Hong Kong are given approval by the Education Bureau ("EDB") to revise their school fees. The media reported that some DSS/private schools had increased school fees by as much as 20%. There are concerns in the community that EDB's approval mechanism is not rigorous enough, such that the applications for school fee revision submitted by those schools are often approved. Apart from school fees, many private schools also raise capital by collecting other charges, such as debentures, school construction fees and nomination right fees (collectively referred to as "other charges"). Those other charges, in various forms and names, refundable or non-refundable, range from a few thousand to a few million dollars.

Provisions under Education Ordinance and Education Regulations

2. The Education Ordinance prescribes, under section 84(1), that the Chief Executive in Council may make regulations providing for the fees and other charges made by schools. Its subsidiary legislation, the Education Regulations, sets out the provisions regarding school fees and other charges. In particular, it is provided under regulation 61(1) that unless approved by EDB, no school shall charge or accept payment of any fees other than the

inclusive fees as printed on the certificate issued by EDB.

Our Findings

3. Regarding EDB's mechanisms for approving the applications for school fee revision by DSS/private schools, and the collection of other charges by private schools, our findings and comments are as follows.

EDB's Mechanisms for Approving Applications for School Fee Revision by DSS/Private Schools

4. EDB has established and has been following the existing mechanisms to approve the applications for school fee revision by DSS/private schools. Regardless of the percentage of increase in their applications for school fee revision, DSS/private schools must submit to EDB their justification for application, information on their financial positions and information about parent consultation/notification. EDB has also imposed a threshold of school fee increase ("the Threshold") on DSS schools' applications for school fee revision. If a DSS school proposes to increase school fees at a percentage higher than the Threshold, or if, despite being at a percentage equal to or lower than the Threshold, its accumulated total operating reserve at the end of the previous school year exceeded its annual operating expenses in the same year, the school must conduct a full consultation with parents and receive consent to the school fee revision from an overwhelming majority of the parents who return the reply slips.

5. The statistics from EDB show that during the five school years from 2014/15 to 2018/19, the number of DSS schools which had applied for school fee revision each year represented 48% to 57% of the total number of DSS schools in Hong Kong. Except for one application, which was rejected, all the other applications were approved, of which most (70% to 87%) were permitted for fee increase at a percentage lower than the Threshold.

6. During the same period, the number of private schools which had applied for school fee revision represented 73% to 81% of the total number of private schools in Hong Kong. All except five of the applications were approved by EDB. Starting from the 2018/19 school year, EDB has required those private schools applying for drastic fee increase or having revised their school fees in consecutive years to enclose documents to show justification and necessity for the school fee revisions. Before the 2018/19 school year, EDB had all along decided whether to approve the applications according to the established mechanism by reviewing the private schools' justification for application, financial position and information about parent consultation/notification. In the 2018/19 school year, only two (1.5%) private schools were given approval to increase school fees by more than 10%, one at about 11% and the other about 14%.

7. Given the media reports that some DSS/private schools increased school fees by as much as 20%, we have scrutinised information about their applications for school fee revision approved during the five school years from 2014/15 to 2018/19. Based on the information provided by EDB, there were indeed DSS/private schools given approval to increase school fees at a percentage close to or higher than 20%, either across all grades or for certain grades. However, those were only isolated cases. EDB has explained why it approved the applications for school fee revision at higher percentages submitted by some DSS/private schools. We find no impropriety on the part of EDB in making approval according to its established mechanisms after reviewing the schools' justification for application, financial position and the opinions of parents.

EDB's Mechanism for Approving Collection of Other Charges by Private Schools

8. EDB is the designated department responsible for monitoring the operation of schools under the Education Ordinance and the Education Regulations. Over the years, the Bureau has been adopting a liberal approach in its interpretation of relevant

provisions based on the legal advice received a long time ago, which considered the collection of other refundable charges by private schools a private financial arrangement between the schools and parents, and hence not requiring approval from the Bureau. During the course of this direct investigation, we pointed out to EDB that its long-established practice is incompatible with regulation 61(1) of the Education Regulations. After seeking further legal advice, EDB conceded that the collection of any other charges (refundable or otherwise) by private schools in relation to the school education received by students should be subject to the Bureau's approval.

9. As regards other charges which are non-refundable, EDB indicated that it would consider the relevant applications from private schools on the basis of their justification for application, including such information as the purpose, needs of the schools and students, communication between the schools and parents, financial position of the schools and their relevant accounts. Nevertheless, EDB is unable to give clear details on the overall application mechanism, procedures and approval criteria, which shows that it has not fully comprehended the situation about other charges collected by private schools.

10. EDB has now gathered information from private schools about other charges collected by them and largely completed a preliminary analysis. It intends to seek further professional advice before drawing up the application and approval procedures for the various forms of other charges, and then make relevant announcements to inform the private schools.

Recommendations

11. Given that EDB has now clarified its purview over the collection of other charges by private schools, The Ombudsman recommends that EDB:

(1) establish a more comprehensive application and approval mechanism regarding other charges collected by private schools, and make announcements to inform private schools and other stakeholders as soon as

possible; and

(2) create a database on other charges collected by private schools to keep track of the overall situation.

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